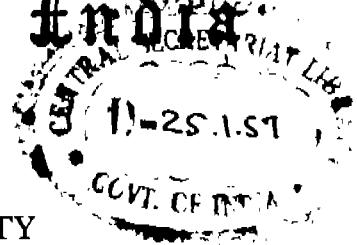


The Gazette of India



EXTRAORDINARY
PART II—Section I
PUBLISHED BY AUTHORITY



No. 84] NEW DELHI, MONDAY, DECEMBER 31, 1956

MINISTRY OF LAW

New Delhi, the 31st December, 1956

The following Act of Parliament received the assent of the President on the 30th December, 1956, and is hereby published for general information:—

THE TERRITORIAL COUNCILS ACT, 1956

No. 103 OF 1956

[30th December, 1956]

An Act to provide for the establishment of Territorial Councils in certain Union territories.

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Territorial Councils Act, 1956. Short title
(2) It extends to the Union territories of Himachal Pradesh, extent and
Manipur and Tripura. commencement.

(3) It shall come into force on the 1st day of January, 1957.

2. In this Act, unless the context otherwise requires,— Definitions.

(1) "Administrator" means the Administrator of a Union territory;

(2) "article" means an article of the Constitution;

(3) "building" includes a house, out-house, stable, latrine, urinal, shed, hut, wall (other than boundary wall) and any other structure, whether of masonry, bricks, wood, mud or other material but does not include any portable or temporary shelter;

(4) "constituency" means a Territorial Council constituency provided by order made under section 4 for the purpose of elections to the Territorial Council;

(5) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruit, vegetables, animals intended for human food or any other articles of human food whatsoever with or without the consent of the owner of such place notwithstanding that there may be no common regulation for the concourse of buyers and sellers and whether or not any control is exercised over the business of, or the persons frequenting, the market by the owner of the place or by any other persons;

(6) "Official Gazette" means the Gazette of the Union territory concerned;

(7) "person" does not include a body of persons;

(8) "Territorial Council" means a Territorial Council constituted under this Act;

(9) "Union territory" means any of the Union territories of Himachal Pradesh, Manipur and Tripura;

(10) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tri-cycle, motor vehicle and every wheeled conveyance which is used or is capable of being used on a street.

CHAPTER II

CONSTITUTION OF TERRITORIAL COUNCILS

**Constitution
of Terri-
torial Coun-
cils and
their com-
position.**

3. (1) For each Union territory there shall be a Territorial Council as from such date as the Administrator may, by notification in the Official Gazette, appoint in this behalf.

(2) The total number of seats in the Territorial Council to be filled by persons chosen by direct election on the basis of adult suffrage from territorial constituencies shall be forty-one in the case of the Territorial Council of Himachal Pradesh and thirty in the case of the Territorial Council of Manipur or of Tripura:

Provided that of the total number of such seats in the Territorial Council of Himachal Pradesh twelve seats shall be reserved for the Scheduled Castes.

(3) The Central Government may nominate not more than two persons, not being persons in the service of Government, to be members of any Territorial Council.

**Delimitation
of constitu-
encies.**

4. The Central Government shall, by order, determine—

(a) the constituencies into which a Union territory shall be divided for the purpose of election of members to the Territorial Council of that territory;

- (b) the extent of each constituency;
- (c) the number of seats allotted to each constituency; and
- (d) the number of seats, if any, reserved for the Scheduled Castes in each constituency in the Union territory of Himachal Pradesh.

5. The Central Government may, from time to time, by order, Power to alter or amend any order made under section 4. alter or amend delimitation orders.

6. A person shall not be qualified to be chosen as a member of a Territorial Council of a Union territory unless he is an elector for any Territorial Council constituency in that territory and, in the case of a seat reserved for the Scheduled Castes is also a member of any of those castes. Qualifications for membership.

7. A person shall be disqualified for being chosen as a member of a Territorial Council if he is for the time being disqualified for being chosen as a member of either House of Parliament. Disqualifications for membership.

8. (1) The persons entitled to vote at elections of members of a Territorial Council shall be the persons entitled, by virtue of the provisions of the Constitution and the Representation of the People Act, 1950, to be registered as voters at elections to the House of the People. Electors and electoral rolls.

(2) So much of the electoral roll for any Parliamentary constituency for the time being in force as relates to the areas comprised within a constituency formed under section 4 shall be deemed to be the electoral roll for that constituency for the purposes of this Act.

9. (1) Every person whose name is, for the time being, entered in the electoral roll of a constituency shall be entitled to vote at the election of a member of the Territorial Council from that constituency. Right to vote.

(2) Every person shall give one vote and no more to any one candidate at an election but in plural member constituencies every elector shall have as many votes as there are members to be elected.

10. The election of members of a Territorial Council shall be held in accordance with rules made under section 20, on such date or dates as the Administrator may, by notification in the Official Gazette, direct: Election of Members.

Provided that a casual vacancy shall be filled as soon as may be after the occurrence of the vacancy:

Provided further that no election shall be held to fill up a casual vacancy occurring within four months prior to the holding of a general election under this section.

Notification of results of elections. 11. The names of all persons elected or nominated to be members of a Territorial Council shall be published by the Administrator in the Official Gazette.

Term of office of members. 12. (1) Save as otherwise provided in this section, the term of office of a member of a Territorial Council shall be five years and shall commence from the date of the notification of his election or nomination under section 11 or from the date on which the vacancy in which he is elected or nominated has occurred, whichever date is later:

Provided that the Central Government may, when satisfied that it is necessary in order to avoid administrative difficulty, extend the term of office of all the elected members of a Council by such period, not exceeding one year, as it thinks fit.

(2) The term of office of a member elected to fill a casual vacancy shall commence from the date of election and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

Disputes as to elections. 13. (1) No election of a member shall be called in question except by an election petition presented to the court of the District Judge having jurisdiction in the area in which the constituency concerned is situated, within thirty days from the date of the notification of the result of the election.

(2) An election petition calling in question any such election may be presented on one or more of the grounds specified in section 15 by any candidate at such election or by any elector of the constituency.

(3) A petitioner shall join as respondents to his petition all the candidates at the election.

(4) An election petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall, with sufficient particulars, set forth the ground or grounds on which the election is called in question; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings.

Relief that may be claimed by a petitioner. 14. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

Grounds on which an election may be called in question. 15. The election of a returned candidate may be called in question on any one or more of the following grounds, namely:—

(a) that on the date of his election the returned candidate was not qualified to be elected, or was disqualified for being elected, as a member under this Act; or

(b) that the nomination paper of any candidate at the election has been improperly rejected; or

(c) that the result of the election has been materially affected by the improper acceptance of a nomination paper or by the improper acceptance or refusal of a vote or by any other cause.

5 of 1908. 16. The procedure provided in the Code of Civil Procedure, 1908, ^{Procedure to be followed} in regard to suits shall be followed by the court of the District Judge, ^{by the District Judge.} as far as it can be made applicable, in the trial and disposal of an election petition under this Act.

17. (1) At the conclusion of the trial of an election petition, the ^{Decision of the District Judge.} court of the District Judge shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of all or any of the returned candidates to be void; or

(c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

(2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the court of the District Judge is of opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes, or

(b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes, the court of the District Judge shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

18. If during the trial of an election petition it appears that there ^{Procedure in case of equality of votes.} is equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then, the court of the District Judge shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

19. (1) An order of the court of the District Judge on an election ^{Finality of decisions.} petition shall be final and conclusive.

(2) An election of a member not called in question in accordance with the foregoing provisions shall be deemed to be a good and valid election.

Power to make rules regulating the election of members. **20.** The Central Government may make rules to regulate all or any of the following matters for the purpose of the holding of elections of members under this Act, namely:—

- (a) the manner of the splitting up of electoral rolls for Parliamentary constituencies into parts for the purpose of constituting one or more of such parts into the electoral roll for a constituency; and the officer or authority by whom such splitting up is to be carried out;
- (b) the drawing up of the programme of election;
- (c) the appointment of returning officers, presiding and polling officers for election;
- (d) the nomination of candidates and the scrutiny of such nominations;
- (e) the deposits to be made by candidates and the time and manner of making such deposits;
- (f) the withdrawal of candidatures;
- (g) the appointment of agents of candidates;
- (h) the time and manner of holding elections;
- (i) the general procedure at the elections including the time, place and hours of poll and the method by which votes shall be cast;
- (j) the fee to be paid on an election petition;
- (k) any other matter relating to elections or election disputes in respect of which the Central Government deems it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary.

Incorporation of Territorial Councils.

21. A Territorial Council shall, by the name of the Union territory for which it is constituted, be a body corporate and shall have perpetual succession and a common seal, with power to acquire, hold and dispose of property, and to contract, and may by the said name sue and be sued.

Chairman and Vice-Chairman.

22. (1) A Territorial Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Vice-Chairman thereof and, so often as the office of Chairman or Vice-Chairman becomes vacant, the Council shall choose another member to be Chairman or Vice-Chairman, as the case may be:

Provided that the Central Government may nominate the first Chairman who shall hold office for a period not exceeding one year.

(2) If a resolution for the removal of an elected Chairman is passed by not less than two-thirds of the total membership of the

Council at a meeting convened in accordance with the provisions of sub-section (3), such resolution shall have the effect of removing the Chairman from his office as from the date on which the resolution is so passed and if such resolution is passed by less than two-thirds but not less than one-half of the total membership of the Council, the Administrator may, by order in writing, remove for reasons to be recorded, the Chairman from his office as from such date as may be specified in the order:

Provided that no such resolution shall be brought within one year from the date of election of the Chairman:

Provided further that if the resolution is not passed by not less than two-thirds of the total membership of the Council, no other resolution for the removal of the Chairman shall be allowed to be considered within one year from the date on which such resolution was considered.

(3) A notice in writing of the intention to move a resolution referred to in sub-section (2) signed by not less than one-third of the total membership of the Council together with a copy of the proposed resolution shall be delivered to the Administrator in accordance with the rules made by the Central Government in this behalf and the Administrator shall, after giving not less than fifteen days' notice thereof, convene for the consideration of the resolution a meeting of the Council to be held in the office of the Council on a date not later than thirty days from the date on which the notice was delivered to him and he shall preside over the meeting.

(4) The Chairman of the Council shall be a whole-time functionary and shall be entitled to such salary or allowances as may be fixed by the Central Government.

23. Every member of a Territorial Council shall, before taking Oath or his seat, make and subscribe at a meeting of the Council, an oath affirmation by members or affirmation in the prescribed form.

24. (1) No person shall be a member both of Parliament and of the Territorial Council of a Union territory, and if a person is chosen a member both of Parliament and of such Council, then at the expiration of 14 days from the date of publication in the Gazette of India or in the Official Gazette, whichever is later, that he has been so chosen, that person's seat in the Territorial Council shall become vacant, unless he has previously resigned his seat in the Parliament.

(2) If a member of the Territorial Council of a Union territory—

(a) becomes subject to any disqualification mentioned in section 7, or

(b) resigns his seat by writing under his hand addressed to the Chairman,
his seat shall thereupon become vacant.

(3) If during six successive months, a member of a Territorial Council is, without permission of the Council, absent from all meetings thereof, the Council may declare his seat vacant.

(4) If any question arises as to whether a member has become subject to any of the disqualifications mentioned in section 7, it shall be referred to the District Judge having jurisdiction in the area in which the constituency concerned is situated, and his decision shall be final.

Salaries and allowances of members. 25. Members of a Territorial Council shall be entitled to receive such salaries or allowances, if any, as may be determined by the Central Government.

Liability of members. 26. Every person shall be liable for the loss, waste or misappropriation of any money or other property belonging to a Territorial Council, if such loss, waste or misappropriation is a direct consequence of his neglect or misconduct while a member of the Territorial Council and a suit for compensation may be instituted against him by the Council with the previous sanction of the Central Government, or by the Administrator with the previous sanction of the Central Government.

Members to be deemed to be public servants. 27. Every member of a Territorial Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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CHAPTER III

FUNCTIONS OF TERRITORIAL COUNCILS

Functions of Territorial Councils. 28. Subject to such exceptions and conditions as the Central Government may make and impose, the following matters shall be under the control and administration of a Territorial Council, namely:—

(i) the maintenance and management of such property, movable and immovable, and institutions, as may be transferred to that Council;

(ii) the construction, repair and maintenance of such of the roads, bridges, channels, buildings and tanks as may be transferred to the Council;

(iii) the planting and preservation of trees and avenues;

(iv) the regulation and prohibition of the driving, riding or leading of animals or vehicles of any particular kind or the driving of carts and carriages exceeding a prescribed weight along any road under its jurisdiction:

- (v) the construction and maintenance of rope-ways, tram-ways, and other means of transport with the previous sanction of the Central Government;
- (vi) the establishment, maintenance and management of primary and secondary schools and the construction and repair of all buildings connected with these institutions; training of teachers and establishment of scholarships;
- (vii) the establishment and maintenance of pounds, including such functions under the Cattle Trespass Act, 1871, as may ^{be transferred to the Council;} of 1871.
- (viii) the establishment, maintenance and management of hospitals and dispensaries, asylums and poorhouses, other than those managed by the Central Government;
- (ix) the establishment, maintenance and management of markets and fairs, rest-houses and encamping grounds and the construction, repair and maintenance of all buildings connected with these institutions;
- (x) the regulation and control of inns and innkeepers;
- (xi) the supply, storage and prevention from pollution of water for drinking, cooking and bathing purposes;
- (xii) the construction, repair and maintenance of embankments, and the supply, storage and control of water for agricultural purposes;
- (xiii) the preservation and reclamation of soil and the drainage of swamps;
- (xiv) the preservation, protection and improvement of live-stock and prevention of animal diseases, and veterinary training and practice;
- (xv) prevention of cruelty to animals;
- (xvi) public health and sanitation;
- (xvii) registration of births, marriages, and deaths;
- (xviii) fairs and agricultural and industrial exhibitions, and the establishment and maintenance of model farms;
- (xix) the management of such ferries as may be entrusted to the charge of the Council;
- (xx) the initiation, inspection and control of relief works;
- (xxi) the superintendence and control of panchayats and the making of grants to them;
- (xxii) any other local works or measures likely to promote the health, comfort, convenience and interests of the public or the agricultural or industrial prosperity of the territory; and

(xxiii) any other matters which the Central Government may declare to be fit and proper matters to be taken under the control and administration of the Council.

CHAPTER IV

PROCEDURE AND STAFF OF TERRITORIAL COUNCILS

Conduct of
Business.

29. A Territorial Council shall meet for the conduct of business at least once in every two months and shall, with the previous approval of the Administrator, make its rules of business with respect to the summoning, notice, place, conduct and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the Council as it may think fit, subject to the following conditions—

(i) the Chairman or, in his absence, the Vice-Chairman, may convene a meeting whenever he thinks fit and shall, upon a requisition made in writing by not less than one-fifth of the members of the Council, convene a meeting within a period of one month from the date of receipt of such requisition;

(ii) the day, time and place of the meeting shall be fixed by the Chairman;

(iii) every meeting shall be open to the public, unless a majority of the members present thereat decide by a resolution that any inquiry or deliberation pending before the Council is such as should be held in private;

(iv) if at any time during a meeting it is brought to the notice of the Chairman that the number of members present inclusive of the Chairman falls short of one-fifth of the whole number of members, the Chairman shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting, or if the latter meeting should again be adjourned, at any subsequent adjourned meeting whether there is a quorum present thereat or not;

(v) at least twelve clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in case of urgency any such meeting may be called upon a notice of not less than six clear days; of adjourned meetings such previous notice shall be given as shall be practicable;

(vi) no business shall be transacted at any meeting other than the business specified in the notice or supplementary notice;

(vii) the minutes of the proceedings of the Council shall be drawn up for each meeting, shall be signed by the Chairman and shall at all reasonable times be open to inspection at the office of the Council by any member free of charge, and by any other person on payment of a fee of eight annas;

(viii) a member shall not vote or take part in the discussion of any matter before a meeting or ask any question concerning any matter in which he has directly or indirectly, by himself or by his partner, any share or interest or in which he is professionally interested on behalf of a client, principal or other person;

Explanation.—For the purpose of this clause a member shall not be deemed to have any share or interest in a contract or employment by reason only of his having any share or interest in—

(a) any lease, sale or purchase of land or any agreement for the same; or

(b) any agreement for the loan of money or any security for the payment of money only; or

(c) any newspaper in which any advertisement relating to the affairs of the Territorial Council is inserted; or

(d) any joint stock company which shall contract with or be employed by the Territorial Council; or

(e) the occasional sale to the Council to a value not exceeding in any one official year two thousand rupees, of any article in which he regularly trades;

(ix) a declaration by the Chairman that a proposition has been carried and any entry to that effect in the minute-book shall, unless a poll is demanded at the time of such declaration by not less than four members, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition; and

(x) when a poll is taken, the vote of each member present and voting upon the proposition shall be taken by tellers appointed by the Chairman and the names of the members voting respectively for or against the proposition shall be recorded in the minute-book.

30. (1) The Administrator may attend and address any meeting of the Territorial Council.

(2) When the Administrator addresses any such meeting, he shall preside over the same.

Right of
Administrator
to attend
and address
meetings of
Territorial
Council.

Committees. 31. A Territorial Council may, from time to time, appoint out of its own body such and so many committees for the efficient discharge of its duties, as may be necessary.

Officers and staff. 32. (1) For every Territorial Council there shall be a chief executive officer who shall be appointed by the Administrator.

(2) If a resolution for removal of the chief executive officer is passed at a meeting of the Territorial Council by a majority of not less than two-thirds of the total membership of the Council, the Administrator shall remove him forthwith.

(3) The appointment of the principal officers in charge of engineering, health services and education shall be made by the Council with the approval of the Administrator.

(4) The Council shall, in addition, appoint such staff as may be necessary for the proper and efficient execution of its duties and make regulations for their conditions of service.

(5) The power of appointing officers and staff (whether temporary or permanent) shall be exercised in accordance with the rules framed for the purpose:

Provided that no person shall be appointed to a post the minimum monthly salary (exclusive of allowances) for which is Rs. 300 per mensem or more except after consultation with the Union Public Service Commission in accordance with the rules.

(6) The conditions of service applicable to a person immediately before his appointment to a post under a Territorial Council shall not be varied to his disadvantage except with the previous approval of the Central Government.

(7) Every officer or member of staff of a Territorial Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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CHAPTER V

FINANCE OF TERRITORIAL COUNCILS AND VESTING OF PROPERTY

Powers taxation. 33. Notwithstanding anything to the contrary contained in any other law for the time being in force, a Territorial Council may levy either or both of the following taxes, namely—

(i) taxes on professions, trades, callings and employments; and

(ii) tolls on bridges constructed or maintained at the cost of the Territorial Council:

Provided that if, immediately before the commencement of this Act, a tax on professions, trades, callings or employments was being lawfully levied by any local authority, that tax may continue to be levied by that authority at the same or a lower rate:

Provided further that no toll shall be levied on any bridge the cost or estimated cost of which is not more than five lakhs of rupees.

34. Income from property owned by or assigned to the Territorial Council shall accrue wholly to that Council. Income from property.

35. A Territorial Council may fix and levy—

Levy of fees.

(a) school fees; and

(b) fees for the use of, or benefits derived from any of the works done or services rendered under clauses (viii), (ix), (xi), (xii), (xv), (xvi), (xviii), (xix) and (xxii) of section 28.

36. The Central Government may pay to a Territorial Council sums equivalent to the proceeds of the following taxes attributable to the area or areas within the jurisdiction of that Council— Payment by Central Government.

(a) the net proceeds of the entertainment tax, including any theatre or show tax;

(b) such percentage of the net proceeds of land revenue not exceeding ten as may be prescribed by the Central Government;

(c) the net proceeds of the taxes levied on motor vehicles;

(d) the net proceeds of the taxes levied under any law which may be in force for the taxation of passengers and goods or fares and freights and the net proceeds of any terminal tax on goods or passengers carried by road, railways, inland waterways or by air.

Explanation.—The expression 'net proceeds' shall mean the proceeds of the taxes after deducting such charges as may be certified by the Central Government as incurred on account of collection, and in the case of the taxes mentioned in clause (c) shall also be understood as excluding the proceeds of such fees as may be collected for services rendered by the Central Government.

37. The Central Government may, subject to such conditions, if Grants. any, as it may impose, make such grant or grants to the Territorial Council as it thinks fit.

**Procedure
for imposing
taxes.**

38. (1) A Territorial Council may resolve, at a meeting specially convened for the purpose to propose the imposition of any of the taxes mentioned in section 33.

(2) When a resolution has been passed, the Council shall publish a notice in the Official Gazette defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any person directly or indirectly affected by the proposed tax and objecting to it may, within thirty days from the publication of the notice, send his objections in writing to the Council and the Council shall, at a specially convened meeting, take all such objections into consideration.

(4) If no objection is sent within the said period of thirty days, or if the objections received are deemed insufficient, the Council may submit through the Administrator its proposals to the Central Government, with the objections, if any, and its decision thereon.

(5) The Central Government may then sanction the proposals, or refuse to sanction them, or return them for further consideration.

(6) When the proposals in respect of a tax have been sanctioned, the Central Government shall notify its imposition in the Official Gazette and specify a date not later than three months from the date of notification on which the tax shall come into force.

**Reduction or
abolition of
tax.**

39. The Central Government may, by notification in the Official Gazette, and a Territorial Council may, with the previous approval of the Central Government, by a resolution passed at a meeting specially convened for the purpose, abolish or reduce any tax imposed under section 33.

**Recovery of
taxes and fees.**

40. All taxes, and fees and all arrears of such taxes, rates or fees, and may be recovered as if they were arrears of land revenue.

**Assessment
and collec-
tion of taxes
and fees.**

41. A Territorial Council may, by notification in the Official Gazette, determine the person by whom any tax, or fee shall be assessed and collected, and make rules for the assessment and collection of such tax, or fee, and direct in what manner persons employed in the assessment or collection shall be remunerated.

Appeals.

42. (1) In matters connected with the assessment and collection of any tax, rate or fee an appeal shall lie from the order of any person authorised to make assessment or collections to such person as the Administrator may appoint or designate for the purpose.

(2) An appeal under sub-section (1) shall be presented within thirty days from the date of the order.

(3) The order passed on the appeal shall be final.

43. A Territorial Council may, by notification in the Official Gazette, prescribe by what instalments and at what times any tax or fee shall be payable.

44. A Territorial Council may, with the previous approval of the Central Government, by notification in the Official Gazette, remit or reduce any tax or fee or exempt any persons or class of persons or any description of property, wholly or in any part, from liability to any tax or fee and cancel any such remission, reduction or exemption.

45. (1) Save as provided by section 40 all moneys claimable by a Territorial Council may be recovered on application to a Magistrate having jurisdiction in the area where the person from whom the money is claimable may, for the time being, be resident, by the distress and sale of any movable property within the limits of his jurisdiction belonging to such person and the cost of such proceedings shall be recoverable in the same manner as the said moneys.

(2) An application for recovery of money shall be in writing and shall be signed by an officer authorised in this behalf by order of the Chairman.

46. A Territorial Council may with the previous approval of the Central Government borrow on the security of any property belonging to the Council such sums as may be necessary for any of the purposes of this Act.

47. All moneys received by or on behalf of the Territorial Council under the provisions of this Act or any other law for the time being in force shall be credited to a fund, which shall be called the "Council Fund" and which shall be held by the Territorial Council in trust for the purposes of this Act.

48. (1) The Council Fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over.

(2) In places where there is no such treasury or bank, the Council Fund may be kept with a banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so kept as the Administrator may in each case think sufficient.

(3) Subject to such rules as the Central Government may make in this behalf, the Territorial Council may from time to time, with the previous sanction of the Administrator, invest any portion of the Council Fund in securities of the Central Government or invest it in such other securities or place it in such other manner as the Administrator may approve in this behalf, and, with the previous sanction of the Administrator, may vary such investment for any other investment or investments of like nature.

(4) The income accruing from the securities or other investments and the proceeds of the sale of the same shall be credited to the Council Fund.

Property vested in
Territorial
Council.

49. Subject to any order of the Central Government, all property of the nature specified below and situated in the Union territory shall vest in and belong to the Territorial Council, and shall with all other property which may become vested in the Council, be under its direction, management, and control and shall be held and applied for the purposes of this Act—

(a) all public buildings constructed or maintained out of the Council Fund;

(b) all public roads which have been constructed or are maintained out of the Council Fund, and the stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such roads;

(c) all land or other property transferred to the Territorial Council by the Central Government, or by gift, sale or otherwise for public purposes.

The Budget.

50. (1) A Territorial Council shall appoint a finance committee consisting of such number of members as may be prescribed by rules made under section 54.

(2) A Territorial Council shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit an estimate of the income and expenditure of the Council for the next financial year, in such form as the Central Government may prescribe.

(3) The Territorial Council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The Council shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Administrator.

(5) The Administrator may, on or before a prescribed day, return the estimate to the Council for amendment on the ground that it fails to make adequate provision for—

- (i) the maintenance of such minimum balance as may be prescribed, or
- (ii) the appropriation of any sum allotted to the Council by the Central Government for the purpose for which it was allotted, or
- (iii) the repayment of loans or any other expenditure for which the Council is legally liable, or
- (iv) any expenditure proposed in the budget, or
- (v) the continuance in future years of any recurring expenditure proposed in the budget.

(6) When a budget is returned under sub-section (5), the Council shall consider the proposed amendments, take a decision thereon, and report the same to the Administrator.

(7) The budget estimate finally adopted by the Council shall be the budget of the Territorial Council.

(8) Any subsequent alteration in the budget, or reappropriation or transfer of provision within the estimate, shall be made with the approval of the Council and shall be reported to the Administrator.

51. Accounts of receipt and expenditure of a Territorial Council Accounts. shall be prepared, inspected and audited in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India, direct.

CHAPTER VI

CONTROL

52. (1) It shall be the duty of the Chairman of a Territorial Control Council to furnish to the Administrator a copy of the proceedings of the meetings of the Council and such other information as he may require.

(2) The Administrator shall have the power to give to the Territorial Council all such directions as he may consider necessary in respect of subjects, curricula, text-books and standards of teaching in schools vested wholly or partly in the Council and in schools wholly or partly maintained by grants payable from the Council Fund, and the Council shall comply with such directions.

(3) The Administrator may, by order and for reasons to be recorded, suspend the execution of any resolution or order of the Territorial Council, or prohibit the doing of any act which is about

to be done, or is being done, in pursuance of or under cover of any provision of the law relating to the constitution or functions of the Territorial Council, if in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause annoyance or injury to the public or to any class or body of persons:

Provided that the Council may, within fifteen days of the date of the order of the Administrator, offer such explanation as it deems fit in relation to the execution of the resolution or order which has been suspended or the doing of the act which has been prohibited.

(4) When the Administrator makes any order as aforesaid, he shall furnish forthwith a copy of it to the Central Government with a statement of the reasons for making it and forward in due course to that Government the explanation, if any, offered by the Council and that Government may, thereupon confirm, modify or rescind the order of the Administrator.

Power to supersede Territorial Council.

53. (1) The Central Government may, on receipt of a report from the Administrator or otherwise, by order, supersede a Territorial Council on being satisfied that the Council is not competent to perform, or persistently makes default in the performance of, its duties, or exceeds or abuses its powers:

Provided that a reasonable opportunity shall be given to the Territorial Council to explain its conduct before the order of supersession is made final by the Central Government.

(2) When an order is made under sub-section (1) above, the Central Government may make such incidental and consequential provisions as may appear to be necessary or expedient for carrying out the functions of the Territorial Council.

(3) As soon as may be after supersession of a Territorial Council under sub-section (1), and in any case within a period of one year from the date of such supersession, the Administrator with the previous approval of the Central Government shall, by one or more notifications published in the Official Gazette, call upon the constituencies to elect members in accordance with the provisions of this Act and the rules and orders thereunder before such date or dates as may be specified in the notification or notifications.

CHAPTER VII

RULES AND BYE-LAWS

Power of the Central Government to make rules.

54. (1) The Central Government may after previous publication make by notification in the Official Gazette rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—

(i) regulate the conduct of business of a Territorial Council, including the appointment of committees;

(ii) prescribe the form in which the budget estimate is to be prepared and the dates for the various stages of its completion;

(iii) determine the language in which business will be transacted;

(iv) regulate the powers of a Territorial Council to transfer property;

(v) regulate the power of a Territorial Council to contract and do other things necessary for the purpose of its constitution and the mode of executing contracts;

(vi) regulate the employment, payment, suspension and removal of officers and servants of a Territorial Council;

(vii) protect the terms and conditions of service of the government servants transferred to a Territorial Council;

(viii) prescribe the forms for statements, registers, estimates and accounts and regulate the keeping, checking and publication of such accounts, and the manner of periodical audit;

(ix) regulate the submission for approval of plans, designs, specifications and estimates of work;

(x) prescribe the extent and the nature of superintendence and control of panchayats; and

(xi) provide for the guidance of a Territorial Council when suits and other proceedings are intended to be or have been instituted by or against it in civil courts.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid for not less than thirty days before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

55. (1) Subject to the provisions of this Act and of the rules made thereunder, a Territorial Council may make bye-laws to provide for all or any of the following matters in the Union territory or in any part thereof, namely:—

(a) the maintenance and management of schools and grant of stipends and scholarships;

(b) control and administration of dispensaries, hospitals and asylums, their construction and repairs, the supply of medicines and the measures to be taken during the prevalence of disease;

- (c) the protection from pollution of such tanks, springs, wells or parts of rivers, streams, channels or water-courses as are set apart for drinking or culinary purposes;
 - (d) the prohibition of the obstruction of any streams, channels and drains under the control of a Territorial Council or the removal of any obstruction;
 - (e) the maintenance of private bazars and melas in a sanitary condition;
 - (f) the establishment and maintenance of hotels and inns, the destruction of unclaimed and diseased dogs and noxious animals, the holding of fairs and exhibitions, the relief of distress, and the carrying out of any other work likely to promote the health, comfort and convenience of the public;
 - (g) the regulation of traffic on roads over which the public have a right of way;
 - (h) the registration of births, deaths and marriages;
 - (i) any other matter which is necessary for carrying out all or any of the provisions of this Act and the rules made thereunder.
- (2) A bye-law made under sub-section (1) shall not have effect until it has been confirmed by the Central Government and published in such manner as that Government may direct.
- (3) The Central Government in confirming a bye-law may make any change therein which appears to it to be necessary.

Penalty for infringement of rules or by-laws. 56. (1) In making any rule, the Central Government and in making any bye-law, a Territorial Council may direct that a breach of the same shall be punished with fine which may extend to one hundred rupees, and, in the case of a continuing breach, with a further fine which may extend to ten rupees for every day during which the breach is continued after the offender has been convicted of such breach.

(2) In default of payment of any fine, the defaulter shall be punishable with imprisonment for a term which may extend to fifteen days.

CHAPTER VIII

SUPPLEMENTARY PROVISIONS

Prosecution. 57. Prosecution for any offence under this Act may be instituted by any person authorised by name or office by the Chairman in this behalf.

58. A person wilfully obstructing a Territorial Council, or any officer or servant of the Council, or any person authorised by the Council, in the exercise of its powers, shall be punishable with fine which may extend to fifty rupees.

59. A Territorial Council may pay compensation out of its fund to any person sustaining damage by reason of the exercise of any of the powers vested in the Council, or its officers and staff and shall pay such compensation when the damage was caused by the negligence of the Council, its officers or staff and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

60. (1) A Territorial Council or with its authorisation its Chair-man, Vice-Chairman, or Chief Executive Officer may, subject to the bye-laws made by the Council for the purpose, accept from any person against whom a reasonable suspicion exists that he has committed an offence under this Act or any rule or bye-law made thereunder, a sum of money by way of compensation for such offence.

(2) On payment of such sum of money the suspected person, if in custody, shall be discharged and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of compensation under the foregoing provisions shall be credited to the funds of the Council.

(4) The authorisation under sub-section (1) to accept composition for alleged offences may be given by the Council either generally in regard to all offences against this Act or the rules or bye-laws made thereunder or particularly only in regard to a specified offence or offences and may be withdrawn at any time.

61. Where any land is required for the use of a Territorial Council, the Central Government may, at the request of the Council, proceed to acquire it under the provisions of the law relating to acquisition of land for the time being in force and, on the payment by the Council of the compensation awarded under the law, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Council.

62. If any member, officer or other employee of a Territorial Council enters into any contract with the Council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Removal of difficulties.

63. The Central Government may, by order, do anything which appears to be necessary or expedient for the purpose of removing any difficulties which may arise in giving effect to the provisions of this Act.

Abolition of Zilla Panchayats and consequential amendments in the Himachal Pradesh Panchayat Raj Act, 1952.

64. (1) As from the date of establishment of the Territorial Council for the Union territory of Himachal Pradesh, all Zilla Panchayats constituted under the Himachal Pradesh Panchayat Raj Act, 1952 shall stand abolished:

H.P. Act No. 6 of 1953.

Provided that—

(a) all funds and properties vested in any such Zilla Panchayat shall on its abolition be deemed to be vested in the Territorial Council;

(b) all debts, obligations and liabilities incurred, all contracts entered into, and all matters and things engaged to be done, by, with or for any such Zilla Panchayat shall on its abolition be deemed to have been incurred, entered into or engaged to be done by, with or for the Territorial Council;

(c) all taxes, fees and sums of money due to any such Zilla Panchayat shall on its abolition be deemed to be due to the Territorial Council;

(d) all suits, prosecutions and other legal proceedings instituted or which might, but for the abolition of any such Zilla Panchayat, have been instituted by or against such Panchayat under the Himachal Pradesh Panchayat Raj Act, 1952, may on its abolition be continued or instituted by or against the Territorial Council.

H.P. Act No. 6 of 1953.

(2) The amendments directed in the Schedule shall be made in the Himachal Pradesh Panchayat Raj Act, 1952.

H.P. Act No. 6 of 1953.

Amendment of Act 43 of 1950.

65. In the Representation of the People Act, 1950,—

(a) in section 2—

(i) the brackets and figure "(1)"; and

(ii) clause (cc),

shall be omitted;

(b) in section 13B, in sub-section (1), for the words "for each assembly constituency, electoral college constituency and council constituency", the words "for each parliamentary constituency in a Union territory, each assembly constituency and each council constituency" shall be substituted;

(c) for section 13D, the following section shall be substituted:—

“13D. (1) The electoral roll for every parliamentary constituency other than a parliamentary constituency in a Union territory shall consist of the electoral rolls of so much of the assembly constituencies as are comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency.

(2) The provisions of Part III shall apply in relation to every parliamentary constituency in a Union territory as they apply in relation to an assembly constituency.”;

(d) in the heading of Part III, the words “and Electoral College” shall be omitted;

(e) in section 14, in clause (a), the words “or an electoral college constituency” shall be omitted;

(f) in section 27A, for sub-sections (3), (4) and (5) the following sub-sections shall be substituted, namely:—

“(3) The electoral college for the Union territory of Delhi shall consist of the persons who immediately before the first day of November, 1956, were members of the Legislative Assembly of the State of Delhi.

(4) The electoral college for each of the Union territories of Himachal Pradesh, Manipur and Tripura shall consist of the members of the Territorial Council constituted for that territory under the Territorial Councils Act, 1956 but shall not include any of the members nominated by the Central Government under sub-section (3) of section 3.”;

(g) sections 27B, 27C and 27D shall be omitted.

66. In the Representation of the People Act, 1951,—

(a) in section 2—

Amendment
of Act 43 of
1951.

(i) in sub-section (1), in clause (b), the words “or the electoral college of a Union territory” shall be omitted;

(ii) in sub-section (2), the words “an electoral college constituency” shall be omitted; and

(iii) in sub-section (3), the words “or the electoral college of a Union territory” shall be omitted;

- (b) in part II, Chapter IV shall be omitted;
- (c) section 13 shall be omitted;
- (d) in section 19, the words "an electoral college constituency or" shall be omitted;
- (e) in section 67A, the words "or to the electoral college of a Union territory" shall be omitted;
- (f) section 72 shall be omitted;
- (g) section 148 shall be omitted;
- (h) in section 158, in the first proviso to sub-section (4), the words "or Council of States constituency" shall be omitted.

THE SCHEDULE

(See section 64)

AMENDMENTS IN THE HIMACHAL PRADESH PANCHAYAT RAJ ACT, 1952, CONSEQUENTIAL ON THE ABOLITION OF ZILLA PANCHAYATS

Section 2.—In sub-section (1)—

- (i) in clauses (e) and (w), for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat";
- (ii) omit clause (cc).

Section 4.—For "Tehsil Panchayat and Zilla Panchayat", substitute "and Tehsil Panchayat".

Section 17.—In clause (g), omit "and Zilla Panchayat" and for "them" substitute "it".

Section 21.—In sub-section (2), omit "and Zilla Panchayat".

Section 22.—Omit "and the Zilla Panchayat".

Section 30.—In sub-section (1), omit "Zilla Panchayat" occurring in the first place and for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat".

Section 34.—Omit "a Zilla Panchayat".

Section 36.—In clause (h) of sub-section (2), omit "Zilla Panchayat".

Section 38.—Omit "a Zilla Panchayat" and for "Tehsil Panchayat or Zilla Panchayat" occurring in two places, substitute "or Tehsil Panchayat".

Section 39.—In sub-section (2), omit the proviso.

Section 99.—Omit "and a Zilla Panchayat" and "and Zilla".

Section 100.—Omit "or a Zilla Panchayat".

Section 102.—Omit.

Section 103.—(i) In sub-section (1), omit “and the Deputy Commissioner as the President of the Zilla Panchayat”;

(ii) In sub-section (2), omit “or the Deputy Commissioner” and “or the Zilla Panchayat, as the case may be”.

Section 104.—Omit “or the Zilla Panchayat” and “or Zilla Panchayat, as the case may be”.

Section 105.—Omit “or the Zilla Panchayat”.

Section 106.—(i) Omit sub-section (2);

(ii) In sub-section (3), omit “or Zilla Panchayat” and “or the Deputy Commissioner, as the case may be”.

Section 110.—Omit.

Section 111.—Omit.

Section 112.—Omit.

Section 113.—Omit “or the Zilla Panchayat” and “or the Zilla Fund, as the case may be”.

Section 114.—Omit “or the Zilla Panchayat” and “or the Zilla Panchayat, as the case may be”.

Section 116.—Omit.

Section 117.—Omit.

Section 118.—(i) In clause (a), omit “Zilla Panchayat” occurring in two places;

(ii) In clause (b), omit “Zilla Panchayat”;

(iii) In clause (c), omit “a Zilla Panchayat” and “Zilla Panchayat”;

(iv) In clause (d), omit “Zilla Panchayat” occurring in two places;

(v) In clause (e), for “Tehsil Panchayat or Zilla Panchayat”, substitute “or Tehsil Panchayat”;

(vi) In clause (f), omit “Zilla Panchayat” occurring in two places.

Section 119.—In sub-sections (1), (2) and (3), omit “Zilla Panchayat”.

Section 122.—Omit “or a Zilla Panchayat”.

Section 123.—In sub-section (2), for “Tehsil Panchayat or Zilla Panchayat”, substitute “or Tehsil Panchayat”.

Section 125.—In clause (a), for “Tehsil Panchayat or Zilla Panchayat”, substitute “or Tehsil Panchayat”.

Section 127.—In sub-section (1), for “Tehsil Panchayat or a Zilla Panchayat”, substitute “or Tehsil Panchayat”.

Section 129.—In sub-section (1), for “Tehsil Panchayat or Zilla Panchayat” occurring in two places, substitute “or Tehsil Panchayat”.

Section 130.—In sub-section (1), omit “or Zilla Panchayat” occurring in the first place and for “Tehsil Panchayat or Zilla Panchayat”, substitute “or Tehsil Panchayat”.

Section 131.—In sub-section (1), for “a Tehsil Panchayat or a Zilla Panchayat”, substitute “or a Tehsil Panchayat” and omit “or Zilla Panchayat”.

Section 135.—In sub-section (2), in clauses (ii), (iii) and (vii), omit “Zilla Panchayat”.

Section 138.—Omit clause (b).

K. V. K. SUNDARAM,
Secy. to the Govt. of India.